

REMARKS/ARGUMENTS

Applicant has studied the Office Action of October 1, 2004 and made amendments to the title and claims, as indicated hereinabove, to place the application in condition for allowance.

Claims 1 – 9, 12 – 19 and 31 – 36 have been canceled. Claims 10 – 11 and 20 – 30 have been amended to define Applicant's invention over the cited prior art. New claims 37 – 40 have been added. Therefore, claims 10 – 11, 20 – 30 and 37 – 40, inclusive, are presently pending.

Claim Objections

Claims 21 and 35 have been objected to because of minor informalities.

Claim 21 has been amended, as indicated hereinabove, to overcome the Examiner's objections. Claim 35 has been canceled rendering the Examiner's objections thereto moot.

Claim Rejections Under 35 U.S.C. §112, Second Paragraph

Claims 7, 15 – 16, 18, 20, 25, 27, 29 and 34 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

Claims 7, 15 – 16, 18 and 34 have been canceled rendering the Examiner's rejections thereto moot. Claims 20, 25, 27 and 29 have been amended, as indicated hereinabove, to overcome the Examiner's rejections.

Double Patenting

Applicant has been advised by the Examiner that in the event that claim 31 is found to be allowable, claim 35 would be objected to under 37 CFR 1.75 as being a substantial duplicate thereof.

Claims 31 and 35 have been canceled, as indicated hereinabove.

Claim Rejections Under 35 U.S.C. §102(b)

Claims 1 – 9, 12 – 19, 21 – 26 and 28 – 36 stand rejected under 35 U.S.C. §102(b) as being anticipated by Tischer et al (US 2002/0046752 A1). Tischer et al teach a firefighting hood which mates with a face mask such that a perimeter front open portion of the hood is nested behind the rim of the face mask to prevent gaps between the hood and the face mask. A fastener system attaches the face mask to the hood to retain the nested arrangement of the perimeter portion of the hood.

The Examiner asserts that Figure 16 of Tischer et al anticipates Applicant's claimed invention by disclosing a mask 112, hood 113, mount band 148, harness 176, and bracket 121.

Applicant respectfully submits that the claimed invention is patentably different from the setup of Tischer et al. Specifically, there is no teaching in Tischer et al in

regard to a bracket adapted to engage a harness (or at least one of the flanges of a harness) and securely couple a mask to a mounting band when the mounting band is being held by a hood, as recited in amended claims 21 – 26 and 28 – 30.

Tischer et al teach a hood support frame 148 being threaded into a hem 156 (Fig. 16) and coupled to a face mask rim 121 via “connector members 162 ... which are circumferentially spaced about the support frame 148 and adapted to be matingly engaged with a corresponding connector member 164 (FIG. 13) of the rim 121. The connector members 162 illustrated in FIGS. 16-18 include a clip portion 166 (FIG. 19) sized to be lockingly received in a slot 168 of the connector member 164 of the rim 121.” (Col. 4, lines 2 – 9, par. 57). A harness 174 is incorporated into hood 113 by connecting the distal end of its straps 176 (Figs. 12 – 13) “to the support frame 148 preferably at a location corresponding to the location of the connector members 162.” (Col. 5, lines 8 – 9, par. 59).

Clearly, face mask rim (or “bracket,” as asserted by the Examiner in item 6 of the Office Action) 121 of Tischer et al does not engage any part of harness 174, as shown in Fig. 16. On the contrary, straps 176 of harness 174 are attached to support frame (or “mount band,” as asserted by the Examiner in item 6 of the Office Action) 148 “by conventional joining methods, such as bonding or stitching.” (Col. 5, lines 11 – 12, par. 59). Tischer et al teach away from the claimed invention by reciting a harness being attached to a mounting band, instead of being engaged by a bracket, as claimed by Applicant.

Applicant respectfully submits that for a reference, such as Tischler et al, to function under 35 U.S.C. 102(b), the reference must within the four corners of that document disclose each and every element that is set forth in the claim against which it is applied. Furthermore, every element of the claimed invention, as recited in the claims, must be disclosed either specifically or inherently by a single prior art reference. See *Minnesota Mining & Mfg. Co. v. Johnson & Johnson Orthopaedics, Inc.*, 976 F.2d 1559, 1565 (Fed.Cir.1992); *Scripps*, 927 F.2d at 1576-77; *Lindemann Maschinenfabrik GMBH, v. American Hoist & Derrick Co.*, 730 F.2d 1452, 1458 (Fed.Cir.1984).

Since the Tischler et al reference does not anticipate in any way the invention, as recited in amended claims 21 – 26 and 28 – 30, Applicant respectfully requests withdrawal of the 102(b) claim rejections in regard to those claims. Claims 1 – 9, 12 – 19 and 31 – 36 have been canceled rendering the Examiner's rejections thereto moot.

Claim 36 stands rejected under 35 U.S.C. §102(b) as being anticipated by Jones (US Patent 3,624,663). Claim 36 has been canceled rendering the Examiner's rejections thereto moot.

Allowable Subject Matter

Claims 10 – 11 have been rewritten in independent form including all limitations of the base claims and any intervening claims to overcome the Examiner's claim objections, as indicated in item 8 of the Office Action. Claims 10 – 11, as amended, are believed to be allowable.

Claims 20 and 27 have been rewritten in independent form to overcome the Examiner's rejections under 35 U.S.C. §112, second paragraph, and to include all limitations of their respective base claims and any intervening claims, as indicated in item 9 of the Office Action. Claims 20 and 27, as amended, are believed to be allowable.

Conclusion

No amendment made was related to the statutory requirements of patentability unless expressly stated herein. Applicant believes that the application, as amended, is in condition for allowance. If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is respectfully requested to call the undersigned attorney at the telephone number listed herein below to discuss any steps necessary for placing the application in condition for allowance.

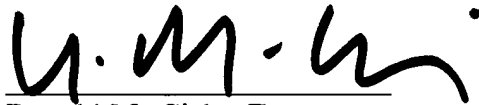
In the event that any fees are due, the Examiner is authorized to charge our

Application No. 10/723,651
Amendment dated December 17, 2004
Reply to Office Action of 10/01/04
Attorney Docket No. 03-12769

USPTO Deposit Account # 03-2030. A duplicate of this authorization is enclosed.

Respectfully submitted,

CISLO & THOMAS LLP

A handwritten signature in black ink, appearing to read 'D. M. Cislo', written over a horizontal line.

Donald M. Cislo, Esq.

Reg. No. 22,060

Date: December 20, 2004

DMC/MM/erh

Enclosure

Acknowledgement Postcard

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